IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. CIVIL WRIT PETITION NO.9900/06
Kallu & Anr. Vs. Ram Chandra & Ors.

Date of order : 6/12/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Ashok Kumar Shahdadpuri for the petitioners.

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Heard learned counsel for the petitioner.

The petitioner has challenged the order passed by the Board of Revenue dated 16.11.1999 and 27.7.2000 whereby his appeal as well as review petition respectively were rejected.

The appeal was filed against the judgment of Revenue Appellate Authority dated 23.3.94, which was against the judgment and decree dated 31.8.90 passed by the Assistant Collector, Rajgarh wherein that Court rejected the injunction suit of the plaintiff.

The Revenue Appellate Authority decreed the suit which order was challenged by the defendant-petitioner in appeal. The Revenue Board confirmed that order and rejected the appeal and thereafter the review petition.

On hearing, learned counsel for the petitioner, I find that the Revenue Appellate Authority as well as Board has held that the defendant could not claim the land in question merely because at one point of time he was recorded as its gair khatedar. The petitioner was recorded as gair khatedar because the land was allotted to him by custodian on the basis of payment of installments, but the petitioners instead of regularly paying the installments, sold out this land to Ram Chandra while registered sale deed and thereafter the mutation of the land was entered in the name of Ram Chandra on

20.10.1987 who had made payment of all these installments and it was in that situation that the learned Revenue Appellate Authority held Ram Chandra as khatedar of the land. The Board in my considered opinion has correctly appreciated the facts that the injunction order has to be based on prima facie case and on the date when the suit was filed, not only the land was recorded in the khatedari of Ram Chandra, but he was also in physical possession and cultivation of the same.

I therefore do not find any merit in this writ petition.

The writ petition is dismissed.

(MOHAMMAD RAFIQ), J.

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